

✓ Volume 1 Dr. Jarvit's State Hosp.

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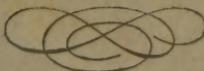
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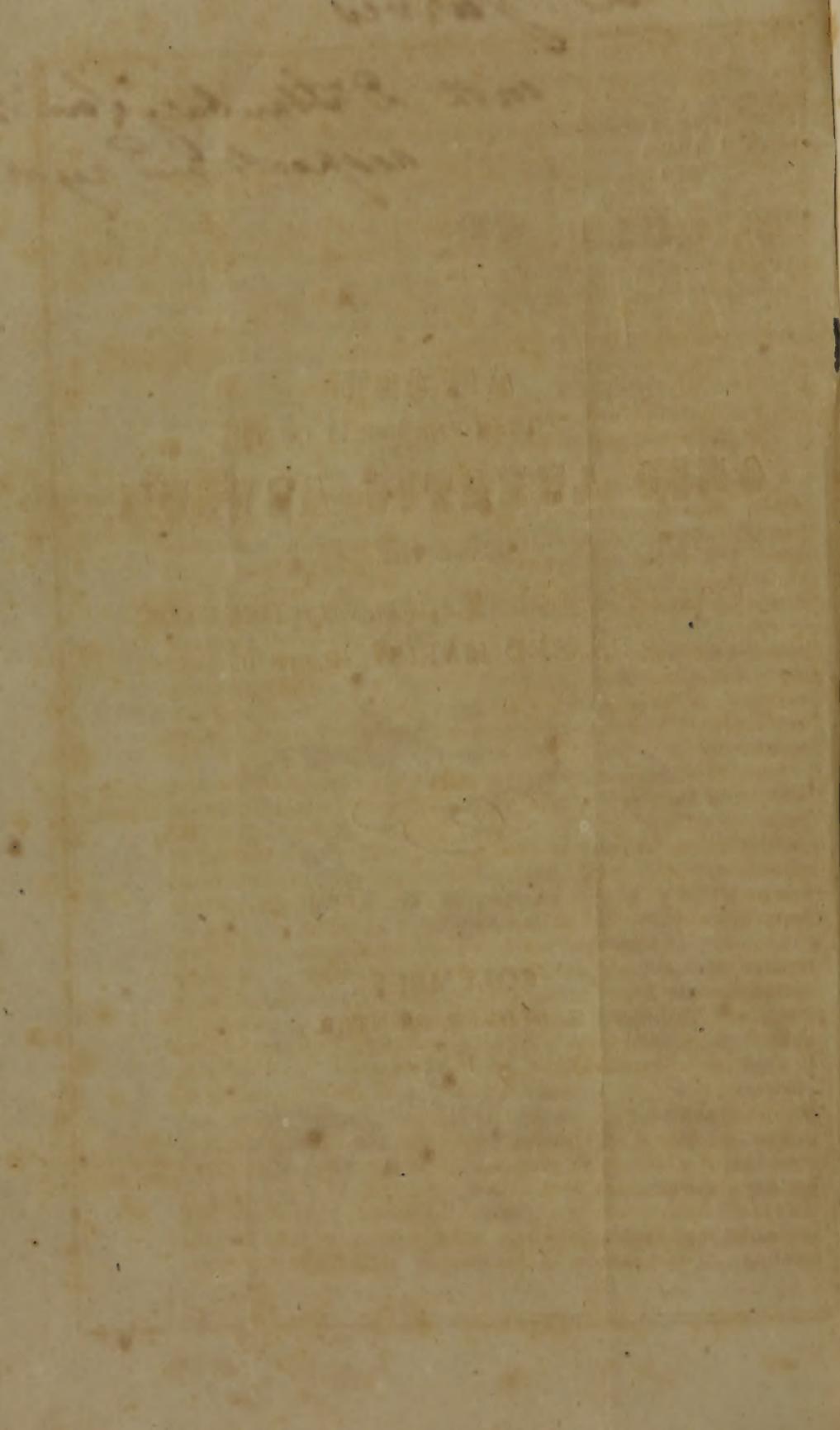
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with Dr. Starbuck Smith's  
respects and regards.

AN ACT  
FOR THE GOVERNMENT OF THE  
**OHIO LUMATIC ASYLUM,**  
AND THE  
CARE OF IDIOTS AND THE INSANE.  
PASSED MARCH 19, 1850.



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AN ACT  
FOR THE GOVERNMENT OF THE  
**OHIO LUNATIC ASYLUM,**  
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**CARE OF IDIOTS AND THE INSANE.**

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**I. APPOINTING POWER AND DUTIES OF OFFICERS.**

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio,* That there shall be a president, and six other directors of the Ohio Lunatic Asylum; they shall be appointed by joint resolution of the General Assembly, and shall serve six years, and until their successors are appointed. When a vacancy occurs during a recess of the General Assembly, it shall be filled by the governor. The person so appointed shall serve until an appointment is made by the General Assembly. The person appointed by the General Assembly shall serve out the residue of the term of the person holding the appointment when the vacancy occurred. The present directors shall serve out their respective terms.

SEC. 2. The directors shall appoint a superintendent, a senior and junior assistant physician, a steward, matron, and such other principal officers as they may deem necessary; they shall fix all salaries, except as may be otherwise provided by law; they shall prescribe rules, regulations, and by-laws, for the government of the institution, and shall exercise such control over its government and management as they may think proper.

SEC. 3. The president of the board of directors shall have a general visitorial and advisory power in the affairs of the institution, and shall receive such compensation for his services as the board of directors may determine. One of the directors shall visit the institution monthly; a majority of them shall visit it together semi-annually; and the whole board shall make at least one such visit during the year. An annual meeting of the board shall be held on the third Tuesday of November.

SEC. 4. The directors shall keep a full account of their proceedings, in a book to be provided for that purpose. Such reports shall be made to them, by the officers of the institution, as they shall from time to time require. The superintendent and treasurer shall each make a full report to them, at their annual meeting. The directors, at that meeting, shall make a full re-

—To keep an account of their proceedings.

Reports of of port to the General Assembly. The annual report of the super-  
ficers: ficers, and of the treasurer, shall accompany the report of  
the directors.

Directors may hold in trust. SEC. 5. The directors may take and hold in trust any lands  
conveyed or devised, and any money or other personal effects,  
given or bequeathed, to be applied to any purpose connected with  
the institution.

—To be repaid their expenses. SEC. 6. The directors shall be repaid any expenses actually  
incurred by them in the performance of the duties of their  
appointment. Such payment shall be made out of the State  
treasury, upon the warrant of the Auditor of State, and, except-  
ing the president, shall receive no other compensation.

Treasurer—his duties, liabilities and salary. SEC. 7. The Treasurer of State shall be the treasurer of the  
asylum, and shall collect all debts due thereto. For any mis-  
feasance, malfeasance or nonfeasance, he and his sureties shall  
be liable as in other cases. He shall receive for his services, an  
annual salary of one hundred dollars, to be paid out of the State  
treasury, upon the warrant of the Auditor of State.

The Superintendent—his general powers and duties. SEC. 8. The superintendent shall be the chief executive offi-  
cer of the institution, and shall have the care and control of eve-  
ry thing connected therewith. He shall employ such attendants,  
assistants, nurses, servants and other persons, as he may think  
proper, and may at pleasure discharge them. In all things, how-  
ever, he shall be subject to the direction and control of the board  
of directors.

—To be a physician; not to practice, &c. SEC. 9. The superintendent shall be a physician, and a per-  
son of acknowledged skill and ability in his profession. He  
shall not attend to any other business, nor engage in the practice  
of his profession, out of the institution. He shall not be subpe-  
naed in any criminal case, unless the court, or in vacation a  
judge thereof, shall make a special order that a subpea issue;  
and, in such case, a memorandum of such order shall be endors-  
ed upon the subpea.

Officers, &c., exempt from serving on juries. &c. SEC. 10. All persons employed in the Asylum, while so em-  
ployed, shall be exempt from serving on juries, from working on  
the highways, and, in time of peace, from serving in the militia;  
and the certificate of the superintendent, under his official seal,  
shall be sufficient evidence of such employment.

SEC. 11. The salaries of officers of the Asylum fixed by law,  
shall be paid quarterly out of the State treasury, upon the war-  
rant of the Auditor of State.

## II. ADMISSION OF PAY PATIENTS, &c.

Proceedings for admission of Pay patients. SEC. 12. Before any person shall be received into the in-  
stitution as a pay patient, there shall be produced to the super-  
intendent—

I. The treasurer's receipt for the payment of at least one  
month's charge in advance.

II. A sufficient obligation, conditioned as hereinafter re-  
quired.

III. A certificate from some respectable physician, setting forth—

1. That the patient is free from any infectious disease, and from vermin.
2. The age of the patient, and a concise history of the case.
3. The duration of the disease, dating from the first symptoms.
4. the supposed exciting cause of the disease.
5. Whether the disease is hereditary.
6. Whether the patient has been subject to epilepsy.
7. Whether the patient has made any attempt to commit any violence upon himself, or others.
8. The medical treatment pursued in the case, and any other circumstances known to the physician, tending to throw further light upon the subject.

No other proceedings shall be necessary for the admission of pay patients.

The obligation above mentioned shall be substantially as follows:

Whereas—, an insane person of—, in the county of—, has this day been admitted as a patient into the Ohio Lunatic Asylum: Now we,—, of the county of—, in the State of Ohio, do jointly and severally promise the superintendent of the said asylum and his successor in office, that we will faithfully maintain said—, and find—, in sufficient and suitable clothing, while—, may remain in the said asylum; that we will monthly, hereafter, pay in advance all charges of said asylum against said patient. We also agree to remove said patient from the asylum, when required; to defray reasonable charges in case of — elopement, and to reimburse funeral expenses in case of — death.

Witness our hands and seals, this— day of—, A. D. 18—.

[L. S.]  
[L. S.]

SEC. 13. If there shall be a balance in the treasury of the Treasurer to institution to the credit of a patient removed from the asylum the <sup>refund unex-</sup> treasurer shall pay it to the person authorized to receive the <sup>pended money</sup> of pay patients. same.

SEC. 14. If the clerk of the court of common pleas of the <sup>How Pay pa-</sup> proper county shall transmit to the superintendent a certificate, <sup>patient may be-</sup> under his official seal, setting forth that any patient in the asy- <sup>come State pa-</sup> lum is in needy circumstances, within the meaning of this act, <sup>tient.</sup> upon the receipt of such certificate by the superintendent, such person shall be a State patient.

### III. ADMISSION OF STATE PATIENTS, &c.

Sec. 15. For the admission of State patients, the following <sup>Statement to be</sup> filed.

proceedings shall be had: Some citizen residing in the proper county, shall file with a justice of the peace of such county, a statement, in writing, which shall be substantially as follows:

**State of Ohio, — county, ss.**

The undersigned, a citizen of the State of Ohio, residing in the said county, hereby states as follows:— [naming the person] is insane. His insanity is of less than two years duration, [or his being at large is dangerous to the safety of the community] he is in needy circumstances, and has a legal settlement in — township, in this county, and an inhabitant of the State of Ohio. These facts can be proved by —, and —, [naming at least two persons, one of whom shall be a respectable physician.]

Dated this — day of —, A. D. —

A. B.

**Subpoena to issue.** 2. The justice shall thereupon issue subpoenas for the persons named as witnesses, and such other persons as he may think proper, commanding them to appear before him at a specified time, to testify concerning the facts set forth in said statement. Subpoenas may also be issued for witnesses in behalf of the person alledged to be insane.

**Justice to visit insane persons, and of inquest.** 3. Before the time specified for the appearance of the witnesses, the justice, with some other justice of the vicinity and of the same county, shall visit the person alledged to be insane.

4. At the time appointed, (unless the investigation shall be adjourned over to some other time,) the said justices shall proceed to examine the witnesses in attendance. At least one of the witnesses examined shall be a respectable physician.

**Certificate of justices of physicians, and bill of costs.** SEC. 16. If, after such visit and inquest, the justices shall be satisfied of the truth of the facts set forth in the statement, they shall require the medical witness forthwith to make out a certificate, such as is required for pay pateints by the twelfth section of this act; they shall likewise, themselves, forthwith make out a bill of the costs of this inquest, as fixed by this act, and also a certificate, which shall be substantially as follows:

**The State of Ohio, — county, ss.**

The undersigned, justices of the peace in and for the county aforesaid, hereby certify that we have visited —, of said county, a person alledged to be insane, and have this day held an inquest in regard to him, according to law. We are satisfied that he is insane; that he has a legal settlement in — township, in this county, and is a citizen of the State of Ohio; that he is a fit subject to be sent to the Ohio Lunatic Asylum, to undergo treatment therein; that he is in needy circumstances, within the meaning of the act relating to idiots and lunatics, and that his disease is of less than two years' duration; [if the disease has continued longer than two years, omit the words "less than two yeas' duration," and insert the following in their place: more

than two years' duration; but we are well satisfied that his being at large would be dangerous to the safety of the community.]

Witness our hands, this —— day of ——, A. D. ——.

A. B.

C. D.

SEC. 17. If after such visit and inquest, the justices shall not be satisfied of the existence of either of the facts necessary to be certified, to entitle the person alleged to be insane to admission into the asylum, they shall make out a certificate in the same form with that required by the preceding section of this act; setting forth the necessary facts of which they are satisfied, and the necessary fact or facts which are not established to their satisfaction. The medical witness shall also make out a certificate, as above required.

SEC. 18. Immediately after the inquest, the justices shall transmit to the clerk of the court of common pleas of such county, the said statement, in writing, the bill of costs, their certificate, and that of the medical witness. The clerk shall label, file, and carefully preserve the same.

SEC. 19. The justice with whom the statement is filled, shall make a docket entry of the proceedings.

Papers to be transmitted to Clerk, and filed.

SEC. 20. The clerk of the court of common pleas, upon receiving the certificate of the two justices and of the medical witness, made out according to the sixteenth section of this act, shall forthwith apply to the superintendent for the admission of such person into the asylum. He shall at the same time transmit the docket entry of the inquest to be made, copies, under his official seal, of said certificates. Upon receiving the application, and said certificates, the superintendent shall immediately advise the clerk whether the patient can be received, and if so, at what time. The clerk shall thereupon, in due season for the conveyance of such person to the asylum by the time appointed, issue his warrant to the sheriff, or any other suitable person, commanding him forthwith to arrest such insane person and convey him to the Ohio Lunatic Asylum. If the clerk be satisfied of its necessity, he may authorize one or more assistants to be employed. Said warrant shall be substantially as follows:

The State of Ohio, —— county, ss.

Office of the Clerk of the Court of Common Pleas.

To ——:

Whereas all the proceedings necessary to entitle —— to be admitted into the Ohio Lunatic Asylum, as a State patient, have been had according to law, you are hereby commanded forthwith to arrest said person and convey him to said Asylum; (and you are hereby authorized to take to your aid —— assistants, if deemed necessary by you.) After executing this warrant, you shall make due return thereof to this office. Witness my hand and seal of office, this —— day of ——, A. D. ——.

\_\_\_\_\_, Clerk.

Upon receiving said patient, the superintendent shall endorse upon said warrant a receipt, substantially as follows:

Ohio Lunatic Asylum,  
\_\_\_\_\_, A. D. \_\_\_\_.

Received this day of \_\_\_\_\_, the patient named in the within warrant. \_\_\_\_\_, Superintendent.

This warrant, with the receipt thereon, shall be returned to the clerk who issued the same, and shall be filed by him with the other papers relating to the case: Provided that in all cases, the relatives of the insane person shall have a right, if they choose, to convey him to the asylum. In such case, the warrant shall be directed to one of them; and the person to whom it is directed, and his assistants, shall, if demanded, receive the same compensation allowed for the like services in other cases: Provided, also, that if the medical witness shall not state, in his certificate, that the patient is free from any infectious disease and from vermin, it shall not be the duty of the clerk to apply to the superintendent, as hereinbefore provided.

Same subject.

SEC. 21. When the two justices shall certify every thing necessary to entitle the person alleged to be insane, to admission into the asylum, except that he is in needy circumstances, within the meaning of this act, further proof may be made upon that subject before the clerk, and if the clerk shall become satisfied that such person is in needy circumstances, within the meaning of this act, he shall make out a certificate to that effect under his official seal, and forward it to the superintendent, with copies of the certificate of the justices and of the medical witness; and thereupon the same proceedings shall be had in all respects as if this fact had been originally certified by the two justices; Provided, that if at any time before the patient is sent to the asylum, a sufficient bond be executed to the State of Ohio, to be approved by the clerk, for the safe keeping and support of the patient, he shall be delivered to his friends; and all proceedings in the case shall thereupon cease. If, however, the condition of the bond be broken, the clerk may thereupon issue his warrant for the conveyance of the patient to the asylum, as if the bond had not been executed.

What clothing to be sent with State patient to the Asylum.

SEC. 22. When a State patient is sent to the asylum, it shall be the duty of the clerk to see that the patient is supplied with the proper clothing; and if not otherwise furnished, the clerk shall purchase it, and in such case the same shall be paid for, upon the certificate of the clerk and the order of the county auditor, out of the county treasury.

For a male patient, such clothing shall be as follows:—A coat, vest, and two pair of pantaloons, all of woolen cloth; two pairs of woolen socks, two pocket handkerchiefs, a black stock or handkerchief for the neck, a good hat of fur or silk, (or comfortable cap,) a pair of shoes or boots, and at least two cotton shirts, and such outside garment as will sufficiently protect him in severe weather.

For a female patient, such clothing shall be as follows:—Two substantial gowns or dresses, two flannel petticoats, two pairs of woolen stockings, one pair of shoes, two handkerchiefs, a decent bonnet, at least two cotton chemises, and a large comfortable shawl or cloak.

In both cases, the articles of clothing shall be new, or as good as new, and the woolens of a dark color. Such clothing shall be delivered in good order, with the patient, to the superintendent; and, without such clothing, the superintendent shall not be bound to receive the patient.

SEC. 23. If the clerk shall neglect to issue and deliver to the proper person a warrant for the conveyance of the patient to the asylum, as hereinbefore required, or if the person to whom the warrant is directed shall not, within fifteen days after the receipt thereof, deliver the patient at the asylum, the clerk or person so offending, shall forfeit the sum of fifty dollars, to be recovered with costs, in an action of debt, in the name of the superintendent, for the use of such patient. And if any insane person shall be conveyed to the asylum before the superintendent shall have given notice that he can be received as hereinbefore provided, no fees or compensation whatever shall be paid to those by whom he was so conveyed.

SEC. 24. If any person conveying a patient to the asylum, under the provisions of this act, shall convey such patient in company with criminals going to the penitentiary, or shall suffer such patient to drink ardent spirits, the person so conveying him and his assistants, shall forfeit all claim to the compensation allowed them by this act.

SEC. 25. If the clerk of the court of common pleas shall transmit to the superintendent a certificate, under his official seal, setting forth that any state patient in the asylum from his county is no longer in needy circumstances, within the meaning of this act, after the receipt of this certificate, the patient shall be a pay-patient; and in such cases charges shall be made out and paid, and a bond shall be required, as in other cases of pay-patients.

SEC. 26. If, according to the result of the inquest, by two justices, the patient shall be entitled to admission into the asylum, the clerk shall direct how he shall be taken care of until he can be admitted, and if necessary, may direct his confinement in the county poor house or county jail, as he may deem best; and if all things needful be not otherwise supplied, he shall furnish them; and, in such case, the same shall be paid for out of the county treasury, on the certificate of the clerk and the order of the county auditor.

SEC. 27. No idiot or lunatic, sent to the county jail, shall, if it can be avoided, be confined in the same room with a person charged with or convicted of crime.

SEC. 28. When an idiot or a lunatic not entitled to admission into the asylum as a state patient, shall be at large, and this being so at large, shall be attended with danger to himself or oth-

Penalty for neg-  
lect of duty by  
Clerk or Sher-  
iff.

How State pa-  
tients may be-  
come Pay pa-  
tients.

How lunatic to-  
be provided for  
until sent to the  
Asylum.

Idiots and lu-  
natics not to be  
confined with  
criminals.

Dangerous idi-  
ots and lunatics  
to be confined,  
&c.

ers; upon such fact being established by the certificate of two justices of the peace of the county, or the affidavit of some respectable citizen of the county, filed with the clerk of the court of common pleas; the clerk shall thereupon order such idiot or lunatic to be confined and provided for as directed by the twenty-sixth section of this act, and all costs and charges shall be paid as directed in said section; Provided, that if such idiot or lunatic, be not in needy circumstances within the meaning of this act, such costs and charges shall be repaid out of his estate, and may be recovered by suit in the name of the county commissioners upon the common counts; and in such case no evidence shall be necessary but the certificate of the clerk under his official seal, setting forth the particulars and amount of such charges and that the same have been paid out of the county treasury.

How such idiots and lunatics to be discharged. SEC. 29. When any person shall be confined as aforesaid, under the order of the clerk, and the attending physician shall certify that he is restored to reason, or that it is no longer necessary to confine him, or if a sufficient bond shall be executed to the State of Ohio, to be approved by the clerk conditioned for his safe keeping and support, the clerk shall thereupon order him to be discharged, or to be delivered to his friends as the case may be, and where an idiot or lunatic shall be so confined, he shall not be discharged or removed, except upon the order or warrant of the clerk, as hereinbefore mentioned; Provided, that nothing herein contained shall be so construed as to deprive the person so confined, of the benefit of the writ of habeas corpus.

The discharge of State patients. SEC. 30. Any patient may be discharged from the asylum, upon the application of the superintendent to one of the directors, and such director's order thereupon. Incurable and harmless patients shall be discharged whenever such discharge is necessary to make room for a recent case from the same county.

Same subject. SEC. 31. Whenever an order shall be made out for the removal of a State patient from the asylum, the superintendent shall immediately give notice thereof, under his official seal, to the clerk of the court of common please of the county from which such patient was sent, and thereupon such clerk shall forthwith issue his warrant to the sheriff of said county, which warrant shall be substantially, as follows:

The State of Ohio, —— county, ss:

Clerk's office of the Court of Common Pleas.

Whereas, the proper authority has directed that ——, a patient in the Ohio Lunatic Asylum, from this county, be removed from said asylum; you are therefore hereby commanded forthwith to remove said patient, and return him to —— township, in this county, where he had a legal settlement when he was taken to said asylum.

Witness my hand and seal of office, this —— day of ——, A. D. ——

Immediately upon receiving such warrant, it shall be the duty of the sheriff, by himself or deputy, forthwith to execute the

same and return it to the clerk by whom it was issued; and if any clerk upon receiving such notice, shall refuse or neglect for the space of five days to issue and place such warrant in the hands of the sheriff, or if such sheriff shall refuse to receive the same, or shall neglect for the space of twenty days after receiving the warrant, to demand such patient of the superintendent, the patient shall be charged from the date of the notice to the clerk until his removal, at the same rates as pay patients, and the amount of such charges may be recovered in an action of assumpsit upon the common counts, with costs of suit in the name of the superintendent, against the clerk or sheriff so offending.

SEC. 32. When a State patient is discharged as cured, the superintendent may furnish him with suitable clothing, and a sum of money not exceeding twenty dollars if he deems it necessary.

Money and  
clothing to be  
furnished State  
patients dis-  
charged.

SEC. 33. No idiot shall be admitted into the asylum, and every such patient therein shall be discharged, and no lunatic under the age of seven years shall be admitted.

Idiots not to be  
admitted into  
the Asylum.

SEC. 34. If application shall be made for the admission of more patients than the Institution can receive, a selection shall be made as follows:

When Asylum  
full, what ap-  
plications pre-  
ferred.

1st. Recent cases, (i. e.) where the disease is of less than one year's duration, shall have the preference over all others in the same county.

2d. Chronic cases, (i. e.) where the disease is of more than one year's duration, presenting the most favorable prospect of recovery, shall be next preferred.

3d. Those for whom applications have been longest on file, other things being equal, shall be next preferred.

4th. No county shall have in the institution more than its just proportion according to its population.

5th. No distinction shall be made between pay patients and State patients.

SEC. 35. Pauper idiots and lunatics, not within the provisions of this act, and those discharged from the asylum, shall be provided for in the same manner as other poor.

Pauper idiots  
and lunatics  
not in Asylum,  
how provided

SEC. 36. When any State patient discharged from the asylum for as cured, shall again become insane, any respectable physician may file with the clerk of the court of common pleas, a certificate, setting forth the recurrence of the disease; and such facts and suggestions relating thereto, as he may deem material; upon receiving such certificate, the clerk shall immediately transmit a copy thereof, authenticated by his official seal to the superintendent, and thereupon the same proceedings shall be had in all respects as when the certificate of the justice holding the inquest was transmitted.

Discharged pa-  
tients becoming  
insane, how re-  
committed.

SEC. 37. When any person shall be confined as insane, a writ of habeas corpus may be issued as in other cases, for his discharge, and the question of insanity shall be decided at the hearing; Provided, that if the judge shall decide that the person is insane, the decision shall be no bar to the issuing of another writ, whenever it shall be alleged that such person has since been restored to reason.

Habeas corpus  
may issue at  
any time.

## IV. OF GUARDIANS OF IDIOTS AND LUNATICS.

Appointment of guardian.

SEC. 38. The court of common pleas at any general or special term, and upon satisfactory proof that any person resident of the county, or having a settlement in any township thereof, is an idiot, or lunatic, may appoint a guardian for such idiot or lunatic.

Guardian of children of lunatics, &c.

SEC. 39. Such guardian shall, by virtue of such appointment, be the guardian of the minor children of his ward, unless the court appoint some other person as their guardian.

General powers, duties, &c.

SEC. 40. All laws relating to guardians for minors and their wards, and all laws pointing out the duties, rights and liabilities of such guardians and their sureties, in force for the time being, shall be applicable to guardians for idiots and lunatics and their children, so far as the same are in conformity with the provisions of this act.

Suits by guardian.

SEC. 41. Such guardian may sue in his own name, describing himself as guardian for the ward for whom he sues, and when his guardianship shall cease by his death, removal or otherwise, or by the decease of his ward, any suit, action or proceeding then pending shall not abate, but his successor, as guardian, or such idiot or lunatic, if he be restored to his reason, or the executor or administrator of such idiot or lunatic, as the case may require, shall be made party to the suit, or other proceeding, in like manner as is or may be provided by law for making an executor or administrator party to a suit or proceeding of a like kind, where the plaintiff dies during its pendency.

Sale of real estate of ward.

SEC. 42. Whenever the sale of the real estate of such ward is necessary for his support, or the support of his family, or the payment of his debts, or such sale will be for the interest of the estate of such idiot or lunatic, or his children, the guardian may sell the same under like proceedings as is or may be required by law to authorize the sale of real estate by the guardian of a minor.

Real contracts of foreign and domestic ward, and of guardian.

SEC. 43. The guardian of an idiot or lunatic, whether appointed by a court in this State or elsewhere, may complete the real contracts of his ward, or any authorized contract of a guardian who has died or been removed, in like manner, and by like proceeding as the real contracts of a decedent may, under an order of court, be specifically performed by his executor or administrator.

Payments, &c., of when estate of ward insolvent.

SEC. 44. If the estate of the idiot or lunatic is insolvent, or will probably be insolvent, the same shall be settled by the guardian in like manner, and like proceedings may be had, as is or may be required by law for the settlement of the insolvent estate of a deceased person.

Powers, &c., of foreign guardian.

SEC. 45. The foreign guardian of a foreign idiot or lunatic, appointed in any other State of the United States or Territories thereof, may possess, manage or dispose of the real and personal estate of his ward, situate in this State, in like manner, and with like authority as guardians of idiots or lunatics appointed by the courts of this State, after complying with the following requisitions:

1. An authenticated copy of the foreign commission of idiocy or lunacy proved, allowed and recorded in the county where such estate is situate, in like manner as is or may be provided by law for the admission to record of an authenticated copy of a will made in any other of the United States.

2. Evidence satisfactory to the court here, before whom such foreign commission is approved, that such idiocy or lunacy still continues.

3. The foregoing guardian shall file his bond with sureties residing in this State or elsewhere, to the acceptance of the court, conditioned for the faithful administration of his guardianship.

SEC. 46. Whenever the court of common pleas, at any regular or special term thereof, shall be satisfied that a lunatic is restored to reason, or that letters of guardianship have been improperly issued under this act, they shall make an entry upon their journal that said guardianship terminate; and the guardianship shall thereupon cease, and the accounts of the guardian shall be settled by the court.

When guardianship to cease, and settlement.

## V. IDIOTS AND LUNATICS IN JAIL, OR UNDER SENTENCE AS CRIMINALS, &c.

SEC. 47. If any person in prison, charged with a crime or misdemeanor, whether in needy circumstances or not, shall, at any time before indictment is found against him, at the request of any citizen be brought before an examining court in the manner provided by the act entitled "an act directing the mode of trial in criminal cases," passed March 7th, 1831; (Collated Stat. 724;) and if it shall be found by the court that such person was an idiot or was insane when he committed the offence, the said court, at their discretion, and the clerk thereof, shall proceed, and the prisoner shall be dealt with in like manner as other idiots and lunatics are required to be, after inquest held by two justices.

How discharged before indictment found if insane when offence committed.

SEC. 48. If any person in prison, shall, after the commission of an offence and before conviction, become insane, whether he be in needy circumstances or not, and whether indicted or not, an examining court may be called in the manner provided in the act entitled "an act directing the mode of trial in criminal cases," passed March 7th, 1831; (Collated Stat. 724;) and if such court shall find that such person became insane after the commission of the crime or misdemeanor of which he stands charged or indicted, and is still insane, the said court and the clerk thereof, shall proceed, and the prisoner shall for the time being, and until restored to reason, be dealt with in like manner as other lunatics are required to be, after inquest had by two justices; Provided, however, that if such lunatic be discharged, the bond given for his support and safe keeping, shall also be conditioned, that said lunatic, shall, when restored to reason, answer to said crime or misdemeanor, and abide the order of the court in the premises; and any such lunatic may, when restored

How discharged, &c., if becomes insane afterwards.

to reason, be prosecuted for any offence committed by him previous to such insanity.

Same subject.

SEC. 49. If the lunatic mentioned in the preceding section, shall be confined in the asylum or poor house, the superintendent in whose charge he may be, shall, as soon as such lunatic is restored to his reason, give notice thereof to the prosecuting attorney of the proper county, and retain such lunatic in custody for such reasonable time thereafter as may be necessary for said attorney to cause a capias to issue and to be served, and no longer; and such capias may be issued upon precipe, filed by said attorney with the clerk of the court of common pleas, by virtue whereof, the said person so restored to reason, shall be again returned to the jail of the proper county, to answer to the offence alleged against him.

How disposed of, &c., if acquitted as insane.

SEC. 50. When a person tried upon indictment for any crime or misdemeanor, shall be acquitted on the sole ground that he was insane, the fact shall be found by the jury in their verdict, and the prisoner shall be dealt with as provided in the two following sections.

Same subject.

SEC. 51. If the prisoner is not in needy circumstances, and the court are satisfied from the nature of the offence or otherwise, that it would be unsafe to permit the prisoner to go at large, such prisoner shall be dealt with in the manner provided in the twenty-eight section of this act.

Same subject.

SEC. 52. If the prisoner is in needy circumstances, the court and the clerk of the court shall proceed, and the prisoner shall be dealt with in like manner as other insane persons are required to be, after inquest had by the justices.

How disposed of, &c., if become insane after conviction

SEC. 53. If any person after being convicted of any crime or misdemeanor, and before the execution in whole or in part, of the sentence of the court, become insane, it shall be the duty of the Governor of the State, to inquire into the facts, and he may pardon such lunatic, or commute or suspend for the time being, the execution, in such manner and for such period as he may think proper, and may, by his warrant to the sheriff of the proper county, or Warden of the Ohio Penitentiary, order such lunatic to be conveyed to the asylum, and there kept until restored to his reason. If the sentence of any such lunatic is suspended by the Governor, the sentence of the court shall be executed upon him after such period of suspension hath expired, unless otherwise directed by the Governor.

How debtors, &c., in prison who are insane, &c., disposed of.

SEC. 54. When any other persons than those described in the seven preceding sections, shall be confined in jail, and shall be insane, they may be proceeded against by two justices, and sent to the asylum, poor house, or jail, or discharged, upon bond being given for their safe keeping and support, or otherwise, as in other cases.

## VI. MISCELLANEOUS PROVISIONS.

How patient

SEC. 55. Should an insane person elope from the asylum,

and return to the county from whence he was committed, it who escapes shall be the duty of the sheriff of said county, upon being notified by the superintendent, forthwith to apprehend him and take him back to the asylum, and the sheriff shall be paid by the steward of the asylum, by order of the superintendent, the same fees as is provided in other cases for the commitment of insane persons to the asylum. And before discharging any patient, the superintendent of the asylum may, in his discretion, require a bond to be executed to the State of Ohio, in such sum and with such sureties as he may deem proper, for the safe keeping of such patient; and no patient who has committed homicide, shall be discharged without the consent of the superintendent, and the written dismission of a majority of the board of directors. And no person who may be under charge for homicide, or for any crime or misdemeanor punishable by confinement in the Penitentiary, shall be admitted into the said asylum, without an inquisition of lunacy as above prescribed, previously had.

SEC. 56. For all debts due the lunatic asylum, an action Suits by Asy-  
may be maintained in the name of "The Superintendent of lum.  
the Ohio Lunatic Asylum," and if the action is not founded upon a sealed instrument, it may be in assumpsit, and the declaration, if any is necessary, in the common counts; and in any action upon any bond given for the support or expenses of a pay patient, or in any other action for the support or expenses of a patient, or for the expenses of his removal from the institution, the account thereof, officially certified by the superintendent or treasurer, shall be prima facie evidence of the indebtedness, and interest shall be chargeable from the time the indebtedness accrued.

SEC. 57. Prosecuting attorneys shall attend to all suits in- Prosecuting at-  
stituted in behalf of the asylum, and shall be entitled to a com- torney to at-  
pensation of five per cent. on all sums collected for the asylum. tend to suits  
and his fees.

SEC. 58. The superintendent shall provide an official seal for the asylum, upon which shall be the words "Ohio Lunatic Seal and au-  
Asylum;" the impression of said seal to a certificate or account to thentication of  
which the signature of the superintendent is annexed, shall be papers by su-  
printendent. prima facie evidence that such signature is the proper hand wri-  
ting of the superintendent.

SEC. 59. If any clerk shall neglect to perform any duties en- Clerk of court  
joined upon him by this act, he shall be removed from office in to be removed  
the same manner as for neglect of any duty. for non-feas-  
ance.

SEC. 60. The board of county commissioners may allow any sum not exceeding fifty dollars per year, to be paid out of the county treasury, for the support of any idiot or lunatic having a legal settlement in any township of the county, and who is not supported by the county, in the jail or poor house. Allowance for pauper idiots or lunatics by county commissioners.

SEC. 61. The taxable costs and expenses, to be paid under the provisions of this act, shall be as follows: Costs, and how paid.

To the justice with whom the statement is filed, one dollar and fifty cents.

To the other justice, one dollar.

To the medical witness, who shall make out a certificate as required by the sixteenth section of this act, three dollars.

To the other witnesses and constable, the same fees as are allowed by law for the like services in other cases.

To the Clerk of the Court of Common Pleas, in the case of each lunatic found by the inquest to be entitled to admission into the asylum, or sent to the asylum upon the clerk's certificate, two dollars, and the amount of postage upon all communications to and from the superintendent, which said clerk is hereby required to pay. In the case of other lunatics and of idiots, wherein he shall act, one dollar each.

To each person employed by the clerk to commit a lunatic or idiot to the poor house or jail, seventy-five cents per day.

To the superintendent of the poor house, or jailor, for keeping any idiot or lunatic, thirty-seven and one half cents per day.

To the sheriff, for taking a patient to the asylum or removing one therefrom, upon the warrant of the clerk, mileage, going and returning, at the rate of ten cents per mile, and seventy-five cents per day for the support of each patient, on his way to or from the asylum.

To each assistant allowed by the clerk, and accompanying the sheriff, mileage, at the rate of eight cents per mile for going and returning. The computation in both instances to be made from the county seat to the asylum by the nearest route usually traveled.

If there be no physician employed, for a stated time, to attend the jail or poor house, the clerk may employ a physician to attend any idiot or lunatic confined therein, and the physician so employed shall receive a compensation not exceeding the rate of two dollars per day; provided that the county commissioners may, if they deem it proper, increase or diminish the same.

The costs specified in this section shall be paid out of the county treasury, upon the certificate of the clerk and the order of the county auditor.

Meaning of  
certain words  
used in this act.

SEC. 62. The terms insane and lunatic, as used in this act, include every species of insanity or mental derangement.

The term idiot is restricted to a person foolish from birth—one supposed to be naturally without a mind.

A person with a family is one who has a wife and child, or either.

The words "needy circumstances," when applied to a person without a family shall mean one whose estate, after payment of his debts and excluding from the estimate such part of his estate as is exempt from execution, is worth less in cash than five hundred dollars; and the same words when applied to a person having a family, shall mean one whose estate, estimated as aforesaid, is worth less in cash, after payment of his debts and the support of his family for one year, than one thousand dollars: Provided that, when the said words are applied to a married woman, her estate, and that of her husband, shall be estimated as aforesaid, and the amount shall determine the question as aforesaid, wheth-

er she be in needy circumstances or not, within the meaning of this act.

State patients are those supported in the asylum at the expense of the State; pay patients are those supported in the asylum by their friends, or from the proceeds of their own property.

Every word in this act importing the masculine gender, shall extend and be applied to females, as well as males; and any word importing the singular number only, or the plural number only, may be applied to one person or thing, as well as to several persons or things.

SEC. 63. The act entitled "an act to provide for the safe keeping of idiots, lunatics, or insane persons, the management of their affairs and for other purposes," passed March 9th, 1838, *Acts repealed.* except the seventeenth section thereof, which relates to guardians of deaf and dumb persons, (Collated Stat. p. 567); the act entitled "an act to provide for the government of the Ohio Lunatic Asylum," passed March 13th, 1838, (Collated Stat. p. 579); the act to amend the two preceding entitled acts, passed February 18th, 1840, (Collated Stat. p. 580); the act entitled "an act to amend the act for the government of the Ohio Lunatic Asylum," passed March 13th, 1843, (41 vol. Stat. p. 72); the act to amend the above entitled act of March 9th, 1838, passed March 12th, 1845, (43 vol. Stat. 74); the act entitled "an act in relation to homicidal insanity," passed March 6th, 1844, (42 vol. Stat. 36); the act to amend the above entitled act of March 9th, 1838, passed March 7th, 1842, (40 vol. Stat. 65), be and the same are hereby repealed, except such parts of said acts as relate to the salaries and fees of the superintendent and other officers of the asylum: Provided that the repeal of said acts, or the acts inconsistent with the provisions of this act, shall not effect any act done, or any right, liability or estate, accruing or accrued, or any suit, matter, or proceeding had, commenced or pending; but the same shall be proceeded in, and judicial procedure and remedies in the premises in like manner had, as if this act had not been passed, and all guardians appointed under said acts shall settle the estate of their wards under the same: and, provided also, that in no case shall the superintendent receive a greater salary than is now paid to him.

SEC. 64. No person shall be considered an inhabitant, within the meaning of this act, who has not resided within this State one year next preceding the date of his or her application; and no person shall be entitled to the benefit of the provisions of this act, as a State patient, except persons whose insanity or lunacy has occurred during the time such person may have resided in the State.

SEC. 65. This act shall take effect and be in force from and after the first day of July next.

BENJAMIN F. LEITER,

*Speaker of the House of Representatives.*

CHARLES C. CONVERS

*Speaker of the Senate.*

